

## BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of: <b>Dodds Ditch Users:</b></p> <p><b>Dyle and Carol Webster</b> <b>Schulz Family, LLC</b> <b>Ned and Loretta Reynolds</b> <b>Ryan and Heather Wilkins</b> <b>Kenny and Gala Morris</b> <b>Jeremy and Amanda Morris</b> <b>Kendal and Erin Hacking</b></p> <p><b>RESPONDENTS</b></p>	<p><b>MEASURING DEVICE NOTICE</b></p> <p>SEAA No. 1505</p> <p>DISTRIBUTION ACCOUNTS: 103019, 103409, 103530, 103531, 102992, 103622, 103623</p> <p>WATER RIGHTS: 45-103, 45-105, 45-106</p>
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### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

*(a) each location where water is diverted from a source; and*

*(b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

*(a) the measuring device; and*

*(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

*(a) forbid the use of water until the user complies with the state engineer's requirement; and*

*(b) commence enforcement proceedings authorized by Section 73-2-25.*

### II. STATEMENT OF FACTS

1. Respondents divert surface water within the Ashley Creek Distribution System operated under the direction of the Water Commissioner appointed by the Utah State Engineer.

2. According to Division records, Respondents own three irrigation rights within Dodds Ditch. Based on our records, the ratio of ownership of water rights within the ditch are:
  - Dyle and/or Carol Webster 0.74457
  - Schulz Family, LLC 0.12000
  - Ned and Loretta Reynolds 0.10500
  - Ryan and Heather Wilkins 0.02530
  - Kenny and Gala Morris 0.00310
  - Jeremy and Amanda Morris 0.00193
  - Kendal and Erin Hacking 0.00010
3. The 2-foot wide steel Parshall flume located at the head of Dodds Ditch rusted out and is not capable of providing an accurate water measurement. A Notice letter was mailed in 2014. A favorable response was received, but the required work was never completed.
4. Respondents must install and maintain their measuring device and it must also enable the water commissioner to efficiently measure the water entering Dodds Ditch.

### III. ACTIONS REQUIRED

1. A suitable measuring device must be installed to enable the measurement of water delivered or diverted into Dodds Ditch. (Note: The repair or replacement of the 2- foot Parshall flume would satisfy this requirement.)
2. The measuring device must provide a “reasonably accurate” flow measurement. Typical measurement is using a flume or a weir. The measuring device must also be kept clean and/or maintained by Respondents as necessary to maintain an accurate measurement.
3. **Respondents must complete the installation of a “properly functioning” measuring device on the Dodds Ditch on or before May 1, 2018.**

### IV. ADDITIONAL AGENCY ACTION

1. The Respondents are encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (6).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.
4. If determined to be in violation an Order, Respondents may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and

replacement of up to 200% of water diverted without right. In addition, Respondents may be liable for expenses incurred by the Division in investigating and stopping the violation.”

#### V. FURTHER INFORMATION

If Respondents have questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert Leake  
*Regional Engineer*  
*Eastern Region*  
*Utah Division of Water Rights*  
*318 North Vernal Avenue*  
*Vernal, Utah*  
*(435) 247-1514*

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

Dated this 18<sup>th</sup> day of April, 2017

A handwritten signature in black ink, appearing to read "Ben Anderson", is written over a horizontal line.

Ben Anderson, P.E.  
Distribution Engineer  
Utah Division of Water Rights

cc: Robert Leake, Regional Engineer  
Larris Hunting, Ashley Creek Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 18<sup>th</sup> day of April, 2017, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Dyle and Carol Webster**  
**1281 West 3200 North**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8654 14**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Schulz Family, LLC**  
**2646 North 1500 West**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8653 60**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Ned and Loretta Reynolds**  
**1380 South 2500 West**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8653 77**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Ryan and Heather Wilkins**  
**537 West 2000 N**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8653 53**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Kenny and Gala Morris**  
**6519 North 6500 West**  
**Vernal, UT 84078**

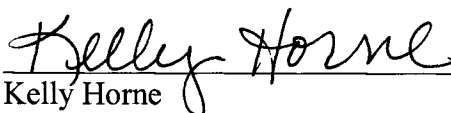
USPS TRACKING # **9114 9999 4423 8701 8653 91**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Jeremy and Amanda Morris**  
**2412 North 1500 West**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8653 84**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Kendal and Erin Hacking**  
**2422 North 1500 West**  
**Vernal, UT 84078**

USPS TRACKING # **9114 9999 4423 8701 8654 07**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.



Kelly Horne  
Division of Water Rights  
Field Services Secretary